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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/525,565

02/25/2005

Werner Brennwald

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5001

40401 7590 02/20/2008  
Hershkovitz & Associates, LLC  
2845 Duke Street  
Alexandria, VA 22314

EXAMINER

RINEHART, KENNETH

ART UNIT

PAPER NUMBER

3749

NOTIFICATION DATE

DELIVERY MODE

02/20/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@hershkovitz.net  
patent@hershkovitz.net

<b>Office Action Summary</b>	<b>Application No.</b> 10/525,565	<b>Applicant(s)</b> BRENNWALD ET AL.	
	<b>Examiner</b> Kenneth B. Rinehart	<b>Art Unit</b> 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 36-39 is/are allowed.
- 6) ☒ Claim(s) 19-24, 26-28, 30-33 and 35 is/are rejected.
- 7) ☒ Claim(s) 25, 29 and 34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/1/08</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 12/19/07 have been fully considered but they are not persuasive. Regarding applicant's comments concerning the independent movement capability as discussed in paragraphs 11-13, the paragraphs reveal that the mixing of the waste is influenced by the movement of the grates as opposed to the number of drive arrangements of the apparatus. The results discussed in the paragraphs cannot be considered to be unexpected as many incinerators have moving grates for intermixing of the waste and the degree of mixing influences the incineration. Furthermore, as can be seen by the cited paragraphs the applicant is merely optimizing the operation of the apparatus.

### ***Information Disclosure Statement***

The information disclosure statement filed 2/1/08 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole

would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-21, 23-24, 26-28, 30-33, 35, 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cross (4,170,183) in view of Baltzinger (4,901,653). Cross discloses and a plurality of grate blocks being arranged in each row of grate blocks (fig. 1), wherein a first number of grate blocks arranged in a moveable row of grate blocks is assigned to a first grate carriage (51, fig. 4), and a second number of grate blocks arranged in the moveable row of grate blocks is assigned to a second grate carriage (49, fig. 4), it being possible for the first number of grate blocks to be moved independently of the second number of grate blocks (fig. 1, fig. 4), the first grate carriage and the second grate carriage have interacting guide elements (53,52), the first grate carriage and the second grate carriage have mechanically coupled, oppositely directed drive arrangements (53,52), the first grate carriage and the second grate carriage are moved cyclically in counter-phase (fig. 1, fig. 4), groups of grate blocks of the same row of grate blocks are assigned in an alternating manner to the first grate carriage and the second grate carriage (fig. 1, fig. 4), at least some of the moveable grate blocks arranged in a line in the transporting direction are assigned in an alternating manner to the first grate carriage and the second grate carriage (fig. 1, fig. 4), the grate blocks are assigned mechanically, as required, to the respective grate carriage (fig. 1, fig. 4), a plurality of moveable rows of grate blocks follow directly one after the other (fig. 1, fig. 4). Cross discloses applicant's invention substantially as claimed with the exception of a plurality of fixed or moveable rows of grate blocks arranged one behind the other, in each

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case one fixed row of grate blocks being followed by at least one moveable row of grate blocks, each fixed row of grate blocks is followed by a moveable row of grate blocks, the first grate carriage and the second grate carriage have drive arrangements which are independent, the first grate carriage has two drive arrangements and the second grate carriage has one drive arrangement, a group of grate blocks is formed by one to five grate blocks, a fixed row of grate blocks is followed in each case by a moveable row of grate blocks. Batlzingger teaches a plurality of fixed or moveable rows of grate blocks arranged one behind the other, in each case one fixed row of grate blocks being followed by at least one moveable row of grate blocks, each fixed row of grate blocks is followed by a moveable row of grate blocks, a fixed row of grate blocks is followed in each case by a moveable row of grate blocks (fig. 4) for the purpose of providing separate motion for alternate rows. It would have been obvious to one of ordinary skill in the art to modify Cross by including a plurality of fixed or moveable rows of grate blocks arranged one behind the other, in each case one fixed row of grate blocks being followed by at least one moveable row of grate blocks, a fixed row of grate blocks is followed in each case by a moveable row of grate blocks as taught by Baltzinger for the purpose of providing separate motion for alternate rows so that stoking is facilitated and more waste is efficiently processed. Cross (4,170,183) in view of Baltzinger (4901653) discloses applicant's invention substantially as claimed with the exception of the first grate carriage and the second grate carriage have drive arrangements which are independent, the first grate carriage has two drive arrangements and the second grate carriage has one drive arrangement, a group of grate blocks is formed by one to five grate blocks. At the time the invention was made it would have been an obvious matter of design choice to a person of ordinary skill in the art to have two drive arrangements because applicant

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has not disclosed that the number of drives or number of grate blocks provides an advantage, is used for a particular purpose or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the number of drives or blocks of Cross or the claimed number because both quantities perform the same function of driving or supporting equally well.

***Allowable Subject Matter***

Claims 38, 39 and 40 are allowed.

Claims 25, 29, and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth B. Rinehart whose telephone number is 571-272-4881. The examiner can normally be reached on 7:10 -4:10.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

kbr

/Kenneth B Rinehart/  
Primary Examiner, Art Unit 3749